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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/653,247

09/03/2003

Kazuhiro Itagaki

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EXAMINER

CRUZ, IRIANA

ART UNIT

PAPER NUMBER

2625

NOTIFICATION DATE

DELIVERY MODE

05/23/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/653,247	<b>Applicant(s)</b> ITAGAKI, KAZUHIRO	
	<b>Examiner</b> IRIANA CRUZ	<b>Art Unit</b> 2625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**Claims 7-12 and 14** are rejected under 35 U.S.C. 101 because fails to fall within a statutory category of invention. It is directed to the program itself, not a process occurring as a result of executing the program, a machine programmed to operate in accordance with the program nor a manufacture structurally and functionally interconnected with the program in a manner which enables the program to act as a computer component and realize its functionality. It is also clearly not directed to a composition of matter. Therefore, it is non-statutory under 35 USC 101.

Examples of acceptable language in computer-processing related claims:

"computer readable medium" encoded with \_\_\_\_\_

- a. "a computer program"
- b. "software"
- c. "computer executable instructions"
- d. "instructions capable of being executed by a computer"

"a computer readable medium" \_\_\_\_\_ "computer program"

- a. storing a

- b. embodied with a
- c. encoded with a
- d. having a stored
- e. having encoded

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-14** are rejected under 35 U.S.C. 103(a) as being unpatentable over Sugawara et al. (US Publication Number 2002/0019848 A1) in view of Wakasugi et al. (US Patent Number 6,823,367 B1).

Regarding **Claim 1**, Sugawara'848 shows a data transmission apparatus (**i.e., image communication apparatus. See Paragraphs 8**) comprising: a sender which sends an e-mail and a request for a return confirmation of receipt of the e-mail to a destination (**i.e., an email is sent requesting an email/confirmation containing the transmitting information. See Paragraphs 8 and 69**); a receiver which receives the confirmation of receipt from the destination (**i.e., a confirmation email can be sent and received. See Paragraphs 8, 72 and 93-97**); and a controller which issues a transmission management report (**i.e., See Figure 1, elements 1-5-3**), describing result of transmission for a plurality of transmissions in the transmission management report (**i.e., confirmation with transmission information/report is sent. See Paragraphs 8,**

**69, 72, 97 and 126)**, wherein said controller describes in the transmission management report a transmission or transmissions on which the result of transmission is uncertain when the transmission management report is issued **(i.e., the confirmation/report describes the status of the transmissions. See Paragraphs 8, 97 and 111 and See Figure 5).**

Sugawara'848 (although shows issuing the transmission report) fails to show a controller which issues a transmission management report at predetermined timings.

Wakasugi'367 teaches a controller which issues a transmission management report at predetermined timings **(i.e., the clock circuit controls the timing of confirmations/reports about the transmission and has an option of perform the reports at fixed/predetermined time intervals. See Column 6, Lines 5-13, See Column 14, Lines 48-60, See Column 19, Lines 64-67 and See Column 21, Lines 19-21).**

Having the system of Sugawara'848 and then given the well-established teaching of the Wakasugi'367, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify the system as suggested by the combination of Sugawara'848 with the teachings of Wakasugi'367 by issuing the transmission management reports at predetermined timings, in order to improve the system by making the transmission reports more efficient, accurate and effective.

Regarding **Claims 2**, Sugawara discloses the data transmission apparatus, wherein the transmission or transmissions on which the result of transmission is uncertain include a transmission or transmissions on which the confirmation of result of

transmission had not been received and a predetermined wait time had not elapsed when the transmission management report is issued **(i.e., See Paragraphs 96)**.

Regarding **Claims 3**, Sugawara discloses the data transmission apparatus wherein said controller describes in the transmission management report that the result of transmission is uncertain for the transmission or transmissions on which the result of transmission is uncertain **(i.e., the confirmation/report describes the status of the transmissions. See Paragraphs 8, 97 and 111, 118 and 158 See Figure 5)**.

Regarding **Claims 4**, Sugawara discloses a data transmission apparatus, wherein said controller describes in the transmission management report the transmission or transmissions on which a last transmission management report stated that the result of transmission is Uncertain **(i.e., the confirmation/report describes the status of the transmissions. See Paragraphs 8, 97 and 111, 118 and 158 See Figure 6)**.

Regarding **Claims 5**, Sugawara discloses a data transmission apparatus, wherein said controller describes in the transmission management report that the result of transmission is certain if the result of transmission becomes certain for the transmission or transmissions, on which a last transmission management report stated that the result of transmission is uncertain, when the transmission management report is issued **(i.e., when the last report states uncertain or unreceived the next step is report it as an error or failure. See Paragraphs 97 and 111)**.

Regarding **Claims 6**, Sugawara discloses a data transmission apparatus, wherein the request of returning confirmation of receipt is based on an MDN (**i.e., See Figs. 3-4 and Paragraphs 6 and 69**).

With regards to method **Claim 7**, the limitation of the claim 7 are corrected by limitation of claim 1 above. The steps of claim 7 read into the function step of claim 1.

With regards to method **Claim 8**, the limitation of the claim 8 are corrected by limitation of claim 2 above. The steps of claim 8 read into the function step of claim 2.

With regards to method **Claim 9**, the limitation of the claim 9 are corrected by limitation of claim 3 above. The steps of claim 9 read into the function step of claim 3.

With regards to method **Claim 10**, the limitation of the claim 10 are corrected by limitation of claim 4 above. The steps of claim 10 read into the function step of claim 4.

With regards to method **Claim 11**, the limitation of the claim 11 are corrected by limitation of claim 5 above. The steps of claim 11 read into the function step of claim 5.

With regards to method **Claim 12**, the limitation of the claim 12 are corrected by limitation of claim 6 above. The steps of claim 12 read into the function step of claim 6.

Regarding **Claim 13**, the combination of Sugawara'848 and Wakasugi'367 show data transmission apparatus wherein the transmission management report is issued when the number of transmissions on which the result of transmission is uncertain reaches a predetermined value (**i.e., See claim 1 in reference Wakasugi'367**).

With regards to method **Claim 14**, the limitation of the claim 14 are corrected by limitation of claim 13 above. The steps of claim 14 read into the function step of claim 13.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to IRIANA CRUZ whose telephone number is (571)270-3246. The examiner can normally be reached on Monday-Friday 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, King Y. Poon can be reached on (571) 272-7440. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/King Y. Poon/  
Supervisory Patent Examiner, Art Unit 2625

Iriana Cruz  
Examiner  
Art Unit 2625

May 16, 2008

/I. C./  
Examiner, Art Unit 2625



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